

PT 95-40  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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CALVARY BAPTIST CHURCH OF NORMAL        )  
                  Applicant                        ) Docket #93-57-22  
  ) Parcel Index #14-21-401-002  
                  v.                                        )  
  ) Barbara S. Rowe  
THE DEPARTMENT OF REVENUE                ) Administrative Law Judge  
OF THE STATE OF ILLINOIS                )  
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RECOMMENDATION FOR DISPOSITION

APPEARANCES: Frank Miles, Attorney for Calvary Baptist Church of Normal

SYNOPSIS: The McLean County Board of Review/Appeals filed an Religious Application for Property Tax Exemption To Board of Review/Appeals - Statement of Facts with the Illinois Department of Revenue (the "Department") for Calvary Baptist Church of Normal (the "Applicant" or "Church"). The Department denied the application finding that the property was not in exempt use. The Applicant filed a protest to the findings of the Department and requested a hearing in the matter. The hearing was held pursuant to the request. At the hearing, the Applicant testified that the parcel was vacant during the taxable year in question. It is therefore recommended that the decision of the Director of the Department be that the parcel in question was not in exempt use for the taxable year in question and that McLean County Parcel Index Number 14-21-401-002 be assessed to the Applicant for 1993.

FINDINGS OF FACT:

1. The Department's position in this matter, namely that McLean County permanent parcel index number 14-21-401-002 should not be exempt

from property tax for the 1993 assessment year was established by admission into evidence of the Department's Exhibits numbered 1 through 6.

2. Applicant was founded on April 29, 1963 with 125 members. The membership has grown and at the time of the hearing was 1,800. Applicant has a staff of 6 pastors and operates a private Christian school for grades kindergarten through twelve. The Applicant has a complex for the school and Church near the subject property. (Tr. pp. 10-11; Applicant's Ex. 1)

3. The Applicant acquired the parcel at issue herein by a warranty deed on April 28, 1992. (Dept. Ex. No. 1)

4. Located on the parcel is a two-story house. (Dept. Ex. No. 1)

5. The Applicant used the parcel as a parsonage for one of the ministers until January 1, 1993. The minister was required to pay \$300 rent per month to retire the bond issued to purchase the property. Applicant requested a property tax exemption for the property in 1992. It was denied by the Department. (Tr. p. 15; Tr. pp 28-30)

6. Applicant has a missionary support program that is in lieu of payments of about \$165,000 per year. Not all members of the missionary program are members of the Applicant itself but all are supported by the Church. (Tr. p. 11)

7. Once the parcel was vacated, the Applicant decided to use the parcel as a home for missionaries on furlough. (Tr. pp. 15-16) The recommendation was presented by the Finance Committee to the governing board of the Applicant on May 3, 1993 and ratified on that date. (Tr. pp. 16-17; Applicant's Ex. 2)

8. After May 3, 1993, the Applicant sent letters to mission families indicating that the house might available for them without charge for rent. The mission families are required to pay utilities. (Applicant's Ex. Nos. 3-5; Tr. p. 18)

9. From January 1, 1993 until May, 1994, the property was empty.

(Tr. pp. 17; 19-20)

10. Beginning in May, 1993, until the first missionary family arrived, the Applicant's congregation remodeled the home. (Tr. pp. 19-20)

11. The delay from June 1993 to May 1994 was due to scheduling. (Tr. p. 20)

12. The stay in the house for Applicant's first missionary family began in May, 1994. (Tr. pp. 19-20)

CONCLUSIONS OF LAW: Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The Statutes of Illinois have provisions for property tax exemptions for distinct situations. In particular, 35 ILCS 19.2 (1992 State Bar Edition) exempts certain property from taxation in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, including all such property owned by churches or religious institutions.....

Applicant's attorney relies on *Evangelical Alliance Mission v. Department of Revenue*, 164 Ill.App.3d 431 (1987), for the proposition that a parcel of land owned by a religious association was entitled to religious exemption from tax being used primarily for religious purposes. While the proposition of Applicant's attorney is true, the parcel in question was not used for religious purposes during the taxable year in question. Applicant's testimony is that the parcel was vacant during the 1993 assessment year.

Church-owned property which was not used for any purpose but was boarded up and vacant between 1976 and 1980 was not exempt from property taxation from 1976 through 1980. *Antioch Missionary Baptist Church v.*

Rosewell, App. 1 Dist. 1983, 75 Ill.Dec. 506, 119 Ill.App.3d 981, 457 N.E.2d 500.

In the case of People ex. rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that a property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt.

Based upon the foregoing, I find that Applicant did not use the parcel in question for religious purposes for the 1993 assessment year. I therefore recommend that the Director find that McLean County parcel index number 14-21-401-002 should remain on the tax assessment rolls for 1993.

Respectfully Submitted,

Barbara S. Rowe  
Administrative Law Judge

May 16, 1995